

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSH L. ANDERSON,)	
)	
Plaintiff)	
)	
v.)	
)	Civil Action No. 04-135 Erie
LARRY E. KOPKO, RANDY J. ICKERT)	
and KATIE L. AVENALI,)	
)	
Defendants)	Jury Trial Demanded

DEFENDANT'S APPLICATION FOR ADDITIONAL VOIR DIRE

Defendant Katie L. Smith, née Katie L. Avenali, respectfully submits the following Defendant's Application for Additional Voir Dire.

1. This case has been brought by plaintiff Josh L. Anderson against defendant Katie L. Smith and it involves the alleged use of excessive force on the plaintiff by the defendant on February 4, 2004 when Mr. Anderson was an inmate in the Warren County Jail and Ms. Smith was a corrections officer. At the time of the incident the defendant's last name was Avenali; she has subsequently married, changing her last name to Smith.

Mr. Anderson alleges that on February 4, 2004 at approximately 12:35 p.m., while Mr. Anderson was being restrained on the floor of the maximum security section of the Warren County Jail by two other corrections officers, Officer Smith kicked him in the mouth, punched him in the face with a closed fist and grabbed his head and struck it against the floor. Officer Smith alleges that she did not kick Mr. Anderson in the mouth, punch him in the face or strike his head against the floor, and that she merely assisted the other two officers in restraining Mr. Anderson.

Do you know anything about this case?

2. Do you know any of the following persons, who may testify as witnesses in this case?

Stephen Breon

Robert Burns

Jerry DiPenti

Jane Farnsworth

Randy Ickert

Kevin Kreckel

Mark Lehnem

Shelley Kreckel

Blaine Molle

Dawn Radaker

William Schultz, M.D.

Joshua Smith

3. Have you or any member of your immediate family ever been an inmate in the Warren County Jail?

4. Have you or any member of your immediate family ever been an inmate in a prison or jail other than the Warren County Jail?

5. Have you or any member of your immediate family ever been treated unfairly or improperly by a corrections officer?

6. Have you or any member of your immediate family ever made a claim that your civil rights were violated?

7. Would you be less likely to believe the testimony of a law enforcement officer or a corrections officer merely because of his or her job?

8. Is there any reason you believe you cannot be a fair and impartial juror in this case?

Respectfully submitted,

/s/ James T. Marnen

James T. Marnen

PA ID No. 15858

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Attorney for Defendants,

Larry E. Kopko, Randy J. Ickert and

Katie L. Smith, née Katie L. Avenali

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 9th day of August, 2006, a copy of the within document was served on all counsel of record and unrepresented parties in accordance with the applicable rules of court.

/s/ James T. Marnen
James T. Marnen